IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI

CIVIL REVISION APPLICATION NO. 74 OF 2002
AND
CIVIL REVISION APPLICATION NO. 75 OF 2002

CIVIL REVISION APPLICATION NO. 74 OF 2002

Mr. Victor Louis Monteiro,
major, r/o Cuelim, Cansaulim,
Mormugao, Goa. ... Applicant.

versus

1. Communidade of Cuelim,
   Mormugao Taluka.

2. Dr. Luis Proto Barbosa,
   Cuelim, Mormugao, Goa.

3. Shri Francisco Alberto
   Lourenco Cunha,
   Cuelim, Mormugao, Goa.

4. Shri Heriberto Francisco
   da Cunha,
   Poco de Bispo, St. Inez,
   Panaji, Goa. ... Respondents.

Mrs. A. A. Agni, Advocate for the Applicant.

Mr. F. M. Reis, Advocate for the Respondent No.4.

CIVIL REVISION APPLICATION NO. 75 OF 2002

Shri Francisco Alberto
Lourenco Cunha, Cuelim,
Mormugao Taluka. ... Applicant.

versus

1. Communidade of Cuelim,
   Cuelim, Mormugao Taluka,
   Goa.

2. Shri Luis Proto Barbosa,
   Cuelim, Mormugao Taluka.

3. Heriberto Francisco
da Cunha, H.No.363,
Ancur Waddo, Carmona,
Salcete, Goa.

4. Shri Victor Luis Monteiro,
Cuelim, Cansaulim,
Mormugao Taluka, Goa. ... Respondents.

Mr. Valmiki Menezes, Advocate for the Applicant.

Mr. F. M. Reis, Advocate for the Respondent No.3.

Mrs. A. A. Agni, Advocate for the Respondent No.4.

CORAM: P. V. HARDAS, J.

DATED: 13TH JUNE, 2002.

ORAL JUDGMENT

Both these revisions arise against a common Order and, therefore, these revisions are decided by this common Judgment.

2. By consent of parties, both the revisions are taken up for final disposal at the stage of Admission. The present Applicant in Civil Revision Application No.74 of 2002 is Party No.5 and the Applicant in Civil Revision Application No.75 of 2002 is Party No.3 in Land Acquisition Case No.4 of 1989 pending on the file of the District Judge, South Goa at Margao. Both these Civil Revision Applications take exception to the Order dated 27th February, 2002 passed by the District Judge, South Goa at Margao in the aforesaid Land Acquisition Case, rejecting the application for

adjournment moved on behalf of the Applicant and closing the cross-examination of witness no.1, Constancio Xavier Menezes.

3. The brief facts necessary for the decision of these revisions are set out hereunder:-

In the aforesaid Land Acquisition Case, the evidence of the Power of Attorney Holder for Original Party No.4 i.e. Respondent No.4 in Civil Revision Application No.74 of 2002 and Respondent No.3 in Civil Revision Application No.75 of 2002, was concluded on 30th January, 2002. Since, other witnesses were not present, the matter was adjourned to 27th February, 2002. It is stated in the Civil Revision Applications that the learned Advocates appearing for Party Nos.3 and 5 had been informed that the name of the other witnesses to be examined on 27th February, 2002 would be furnished on or about 15th February, 2002. It is stated that the names of the witnesses had not been made known to the respective Advocates till the date of hearing i.e. 27th February, 2002. On 27th February, 2002, the Respondent No.4, Original Party No.4 examined one Constancio Xavier Menezes, a surveyor. A motion for adjournments was filed on behalf of the Applicants in both these revisions praying for adjournment on the ground that the name of

the said witness had not been furnished to the Applicants in the revisions and, therefore, they could not effectively cross-examine the said witnesses. It appears that the District Judge, South Goa at Margao, rejected the application for adjournment and hence, this revision.

4. I have heard Mrs. A. A. Agni, learned Advocate appearing for the Applicant in Civil Revision Application No.74 of 2002 and Mr. Valmiki Menezes, learned Advocate appearing for the Applicant in Civil Revision Application No.75 of 2002. I have also heard Mr. F. M. Reis, learned Advocate appearing for the Respondent No.4 in Civil Revision Application No.74 of 2002 and for Respondent No.3 in Civil Revision Application No.75 of 2002.

5. It is an undisputed fact that the name of the witness had not been furnished to the learned Advocates appearing for Original Party Nos.3 and 5 in the Land Acquisition Case No.4 of 1989 before the District Judge. Undeniably, the right of cross-examination is a very valuable right. The veracity of a witness can be tested in the cross-examination. The purpose of furnishing the list of witnesses is to put the opposite parties to notice regarding the witness or the witnesses to be examined.

For cross-examination to be effective, the parties must be aware about the name of the witness who is to be examined. In this case, undisputedly the name of the witness had not been disclosed to the parties. The Applicants, therefore, according to me were perfectly justified for seeking an adjournment to cross-examine the witness as they were taken by surprise by the examination of the said witness. The effectiveness of the cross-examination would certainly have been blunted had the Counsels been called upon to cross-examine the witness on the very same day particularly when they were not made aware as to who would be examined. The opportunity to cross-examine a witness has to be given to a party and the opportunity has to be meaningful and effective. According to me, therefore, the learned District Judge,South Goa at Margao was not right in refusing an adjournment on the ground stated in the application.

6. For the aforesaid reasons, Civil Revision Applications No.74 of 2002 and 75 of 2002 are allowed and the impugned Order dated 27th February, 2002 refusing to grant adjournment is hereby quashed and set aside. The learned District Judge, South Goa at Margao shall afford opportunity to the Applicants in these revisions to cross-examine Constancio Xavier Menezes examined by Party No.4. The parties to appear

before the learned District Judge, South Goa at Margao on 6th July, 2002. The learned District Judge, South Goa at Margao to fix the case thereafter for evidence.

7. Civil Revision Applications are, therefore, allowed with no order as to costs with the aforesaid directions.

P. V. HARDAS, J.